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**HOUSE BILL 326**

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

**INTRODUCED BY**

**Rick Miera**

**AN ACT**

**RELATING TO CRIMINAL OFFENSES; PROVIDING THAT EXTREME CRUELTY  
TO ANIMALS INCLUDES ABANDONMENT OR FAILURE TO PROVIDE  
SUSTENANCE.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 30-18-1 NMSA 1978 (being Laws 1999,  
Chapter 107, Section 1, as amended) is amended to read:**

**"30-18-1. CRUELTY TO ANIMALS-- EXTREME CRUELTY TO  
ANIMALS-- PENALTIES-- EXCEPTIONS. --**

**A. As used in this section, "animal" does not  
include insects or reptiles.**

**B. Cruelty to animals consists of a person:**

**(1) negligently mistreating, injuring,  
killing without lawful justification or tormenting an animal;  
or**

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1 (2) abandoning or failing to provide  
2 necessary sustenance to an animal that is under that person's  
3 custody or control in a way that is not life-threatening.

4 C. As used in Subsection B of this section,  
5 "lawful justification" means:

6 (1) humanely destroying a sick or injured  
7 animal; or

8 (2) protecting a person or animal from death  
9 or injury due to an attack by another animal.

10 D. Whoever commits cruelty to animals is guilty of  
11 a misdemeanor and shall be sentenced pursuant to the  
12 provisions of Section [~~31-19-1~~] 31-18-15 NMSA 1978. Upon a  
13 fourth or subsequent conviction for committing cruelty to  
14 animals, the offender is guilty of a fourth degree felony and  
15 shall be sentenced pursuant to the provisions of Section 31-  
16 18-15 NMSA 1978.

17 E. Extreme cruelty to animals consists of a  
18 person:

19 (1) intentionally or maliciously torturing,  
20 mutilating, injuring or poisoning an animal; [~~or~~]

21 (2) maliciously killing an animal; or

22 (3) starving or dehydrating an animal in a  
23 way that imperils its life.

24 F. Whoever commits extreme cruelty to animals is  
25 guilty of a fourth degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978.

2 G. The court may order a person convicted for  
3 committing cruelty to animals to participate in an animal  
4 cruelty prevention program or an animal cruelty education  
5 program. The court may also order a person convicted for  
6 committing cruelty to animals or extreme cruelty to animals to  
7 obtain psychological counseling for treatment of a mental  
8 health disorder if, in the court's judgment, the mental health  
9 disorder contributed to the commission of the criminal  
10 offense. The offender shall bear the expense of participating  
11 in an animal cruelty prevention program, animal cruelty  
12 education program or psychological counseling ordered by the  
13 court.

14 H. If a child is adjudicated of cruelty to  
15 animals, the court shall order an assessment and any necessary  
16 psychological counseling or treatment of the child.

17 I. The provisions of this section do not apply to:

- 18 (1) fishing, hunting, falconry, taking and  
19 trapping, as provided in Chapter 17 NMSA 1978;  
20 (2) the practice of veterinary medicine, as  
21 provided in Chapter 61, Article 14 NMSA 1978;  
22 (3) rodent or pest control, as provided in  
23 Chapter 77, Article 15 NMSA 1978;  
24 (4) the treatment of livestock and other  
25 animals used on farms and ranches for the production of food,

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1 fiber or other agricultural products, when the treatment is in  
2 accordance with commonly accepted agricultural animal  
3 husbandry practices;

4 (5) the use of commonly accepted Mexican and  
5 American rodeo practices, unless otherwise prohibited by law;

6 (6) research facilities [~~licensed pursuant to~~  
7 ~~the provisions of 7 U.S.C.~~] registered pursuant to 7 USCA  
8 Section 2136, except when knowingly operating outside  
9 provisions, governing the treatment of animals, of a research  
10 or maintenance protocol approved by the institutional animal  
11 care and use committee of the facility; or

12 (7) other similar activities not otherwise  
13 prohibited by law.

14 J. If there is a dispute as to what constitutes  
15 commonly accepted agricultural animal husbandry practices or  
16 commonly accepted rodeo practices, the New Mexico livestock  
17 board shall hold a hearing to determine if the practice in  
18 question is a commonly accepted agricultural animal husbandry  
19 practice or commonly accepted rodeo practice.

20 K. The provisions of this section shall not be  
21 interpreted to prohibit cockfighting in New Mexico. "